

Personnel Rule 7.3 – Leave of Absence

7.3.0 Authority

RCW 1.16.050 – Legal Holidays and Legislatively Recognized Days

SMC 4.04.030 and subsequent revisions thereto, Definitions

SMC 4.04.040 and subsequent revisions thereto, Administration

SMC 4.04.050 and subsequent revisions thereto, Rule-Making Authority

SMC 4.20.060 and subsequent revisions thereto, Credit for Unpaid Absences

SMC 4.34.055 and subsequent revisions thereto, Use and Scheduling of Vacation

RCW 50A, Washington State Paid Family and Medical Leave

Americans With Disabilities Act of 1990, and Civil Rights Act of 1964 (Regulations to Implement the Equal Employment Provisions at 29 CFR Part 1630)

7.3.1 Definition

- A. "Appointing authority" shall mean the head of an employing unit authorized by ordinance or City Charter to employ others on behalf of the City, or a designated management representative. The term includes and can be used interchangeably with department head, department director, superintendent, or chief.
- B. "Medical Leave of Absence" shall mean an unpaid absence that the City of Seattle shall grant to an employee who requests time off due to medical or family reasons and is not otherwise eligible for a City leave program but has been approved for Washington State Paid Family and Medical Leave by the Washington State Employment Security Department.
- C. "Personal Leave of Absence" shall mean a discretionary unpaid absence longer than 15 calendar days but no longer than 12 months that an appointing authority may grant to an employee for personal reasons or medical reasons that are ineligible for City and State leave programs.
- D. "Seattle Human Resources Director" shall mean the head of the Seattle Department of Human Resources or their designated management representative.
- E. "Probationary employee" shall mean an employee who has been appointed to a position within the classified service but who has not completed a one-year period of probation
- F. "Regularly appointed employee" shall mean an individual with a probationary, regular, or exempt appointment to a position of City employment.
- G. "Seniority" shall mean a regular employee's length of continuous service in their current classification and all higher classifications since original appointment to that classification, excluding any break in service occasioned by a quit,

resignation, retirement, or discharge.

7.3.2 Application of this Rule

- A. The provisions of this Rule apply to regularly appointed employees.
- B. For regularly appointed employees who are represented under the terms of a collective bargaining agreement, this Rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- C. This Rule does not apply to individuals who are employed under the terms of a grant that includes leave of absence provisions that conflict with this Rule.
- D. This Rule does not apply to individuals hired by the City on a temporary, intermittent, or seasonal basis, or for a work schedule of fewer than 20 hours per week, nor does it apply to individuals hired under contract to the City.
- E. Appointing authorities may establish written policies and procedures for the administration of a Personal Leave of Absence to facilitate the management of the personnel system within their employing units, provided that such procedures do not conflict with the provisions of this Rule.
- F. Appointing authorities shall follow the Seattle Human Resources' (SHR) established written policies and procedures for the administration of a Medical Leave of Absence to facilitate the management of the personnel system within their employing units.

7.3.3 Medical Leave of Absence for Washington State Paid Family and Medical Leave Qualifying Employees

- A. An employee shall be granted a provisional Medical Leave of Absence by the appointing authority only when the employee is eligible for Washington State Paid Family and Medical Leave Program and is otherwise ineligible for other City of Seattle leave programs.
- B. An employee's provisional Medical Leave of Absence shall be finalized by the appointing authority only when the appointing authority or their designated management representative receives a copy of the employee's Washington State Paid Family and Medical Leave (SPFML) claim determination notice from the Washington State Employment Security Department (ESD).
- C. An employee's Medical Leave of Absence shall be approved in accordance with their Washington State Paid Family and Medical Leave claim determination notice.
- D. Upon confirmation of return-to-work, an employee must be reinstated to the position from which the employee took their Medical Leave of Absence or to an equivalent position. The employee's right to restoration to the same or equivalent position is no greater than if the employee had been continuously working.

- E. An employee with less than six months of employment with the City of Seattle who has been granted a Medical Leave of Absence shall have job protection up to the date they become eligible for a City leave. To maintain such job protection after the employee's eligibility date for a City leave and while on Washington State Paid Family and Medical Leave, the employee shall apply for and be approved for a City leave within 15 days after their eligibility date.
- F. The appointing authority may require a medical release upon the employee's return from a medical leave of absence for their own medical condition to verify that the employee is able to perform the essential functions of the job.
- G. An employee who fails to return to work from a medical leave of absence for any reason and who does not obtain the appropriate approvals for an extension of, or an additional leave of absence shall be treated as a voluntary resignation. The appointing authority will provide the employee written notice via personal delivery or certified mail of this intended personnel action. If the employee fails to respond to the notice within five business days of the notice being sent, the personnel action will be final on the date the leave of absence was scheduled to end.
- H. Should the employee exhaust both their Washington State Paid Family and Medical Leave and City leave benefits due to the employee's own medical condition, the employee may seek leave under sections 7.3.4 or 7.3.5 of this Personnel Rule.

7.3.4 Personal Leave of Absence

- A. An employee may request, and the appointing authority may grant a leave of absence without pay for minimum of 15 days and a maximum of 12 consecutive months for personal reasons or medical reasons for which the employee is ineligible for a City and State leave benefit.
- B. The appointing authority shall not approve a personal leave of absence for medical reasons if the employee's request qualifies for City Family and Medical Leave and the employee has not exhausted their unpaid City Family and Medical Leave entitlement hours.
- C. All terms and conditions of a personal leave of absence, including whether the employee's job will be held for their return, shall be established in writing by the appointing authority prior to the commencement of the leave.
 - 1. An employee shall have no greater right to reinstatement than if the employee had been continuously working during the leave period.
 - 2. If a personal leave of absence is granted to an employee by their appointing authority due to medical reasons not eligible for City and State leave benefits:
 - To monitor the employee's medical progress and to manage

workload issues arising from the employee's absence, the appointing authority may require an employee to produce certification from a health care provider of the continuing need for personal leave of absence due to medical reasons on a regular basis but not more frequently than once every 30 days. The appointing authority may withhold approval of each additional period of leave pending receipt of such certification.

- The appointing authority may require a medical release upon the employee's return from a leave of absence for their own medical condition to verify that the employee is able to perform the essential functions of the job.
- D. With the approval of the appointing authority, an employee need not exhaust the paid leave balances for which the employee is eligible prior to taking a personal leave of absence. However, an employee's accumulated sick leave must be used before an employee is granted a personal leave of absence for medical reasons for which they are not receiving workers' compensation benefits.
- E. An employee whose request for a personal leave of absence for medical reasons is approved shall not accept employment elsewhere without the prior approval of the appointing authority.
- F. All requests for a personal leave of absence shall be made by the employee in writing to their appointing authority. Such requests shall specify the general nature of the request (e.g., "care of a family member after exhausting city and state leave benefit," "extended vacation," etc.) and the employee's expected date of return to work.
- G. Extension of a personal leave of absence beyond 12 months requires the concurrence of both the appointing authority and the Seattle Human Resources Director.
- H. An employee who fails to return to work from a personal leave of absence for any reason and who does not obtain the appropriate approvals for an extension or an additional leave of absence shall be treated as a voluntary resignation. The appointing authority will provide the employee written notice via personal delivery or certified mail of this intended personnel action. If the employee fails to respond to the notice within five business days of the notice being sent, the personnel action will be final on the date the leave of absence was scheduled to end.

7.3.1 Leave of Absence as an ADA/WLAD Reasonable Accommodation

- A. The appointing authority shall approve a leave of absence for medical reasons as a reasonable accommodation under the Americans with Disabilities Act (ADA) and the Washington Law Against Discrimination (WLAD) under the following conditions, except where such leave of absence constitutes an undue hardship.

1. A leave of absence as a reasonable accommodation shall be approved when the employing unit and the Seattle Human Resources Director have been otherwise unable to accommodate the employee's disability with modifications to the employee's job, work environment, or other conditions of employment, or with a reassignment to another job for which the employee is qualified, with or without accommodation. The purpose of a leave of absence as a reasonable accommodation approved under this Rule is to permit the employee and the City to continue to search for an appropriate job placement.
 2. A leave of absence as a reasonable accommodation shall be approved when the employee's disabling condition is not stabilized, making modifications to their job, work environment or other conditions of employment premature. The purpose of a leave of absence as a reasonable accommodation approved under this Rule is to provide the employee with time for such treatment or rehabilitation as is necessary to stabilize their condition.
- B. The appointing authority may require such job-related medical information as is necessary to ascertain the appropriateness of a leave of absence as a reasonable accommodation .
- C. A leave of absence as a reasonable accommodation approved under ADA/WLAD shall be unconditional. However, depending on the employee's disability, the guarantee of restoration may be to an equivalent City employment rather than to a specific position. In addition, the employee's right to restoration is no greater than if the employee was not on leave of absence.
- D. A leave of absence as a reasonable accommodation approved under ADA/WLAD shall not exceed 12 months duration without the concurrence of the appointing authority and the Seattle Human Resources Director.

7.3.2 Unpaid Religious Days

- A. Pursuant to the authority of RCW 1.16.050, an employee is entitled to two unpaid days per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. These days shall be taken in increments of a whole calendar day and may not be carried over from year to year.
- B. An employee may take the unpaid religious days at any time with supervisory approval. The employee's supervisor or other management representative may deny the use of an unpaid religious day if the employee is necessary to maintain public safety, or if the employee's absence creates an undue hardship as defined by the Washington State Office of Financial Management.
- C. Effect of unpaid religious days on an employee's service credit shall be consistent with Personnel Rule 7.3.6.

- D. The City will continue to provide reasonable accommodation based on religion under federal law to employees who seek accommodation in addition to the two unpaid days.

7.3.3 Effect of Unpaid Leave on Service Credit

- A. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall have any period(s) of unpaid leave deducted from their service credit for purposes of calculating seniority for layoff.
- B. A probationary employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave, or who takes paid leave authorized under Personnel Rule 7.6, Vacation; Personnel Rule 7.8, Sick Leave and Sick Leave Transfer; or Personnel Rule 7.9, Funeral Leave shall have their probationary period adjusted for any period(s) of absence in excess of 30 working days.
- C. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall have any period(s) of absence deducted from their service credit for purposes of calculating retirement eligibility and benefit, if applicable.
- D. An employee who takes unpaid leave of absence authorized under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall have their next salary increment date adjusted for any period(s) of absence in excess of the equivalent of 240 regular pay hours.

7.3.4 Unpaid Leave Limitations

No period of unpaid leave or combination of unpaid leaves granted under Personnel Rule 7.1, Family and Medical Leave; Personnel Rule 7.2, Pregnancy Disability Leave and Limited Duty Assignment; Personnel Rule 7.3, Leave of Absence; or Personnel Rule 7.4, Sabbatical Leave shall exceed 12 months except with the prior approval of the appointing authority and the Seattle Human Resources Director.